



DUKE COGEMA  
STONE & WEBSTER

Mr. Eric J. Leeds, Chief  
Special Projects Branch  
Division of Fuel Cycle Safety and Safeguards  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

29 January 2001  
DCS-NRC-000033  
Response Requested: *No*  
By: *N/A*

Attention: Document Control Desk

Subject: Docket Number 070-03098  
Duke Cogema Stone & Webster  
Mixed Oxide (MOX) Fuel Fabrication Facility  
Proposed Federal Register Notices

Dear Mr. Leeds:

As you know, the license application for the Mixed Oxide Fuel Fabrication Facility to be filed by Duke Cogema Stone & Webster LLC (DCS) with the Nuclear Regulatory Commission (NRC) will be the first application of its kind for a plutonium and uranium fuel fabrication facility. As part of the licensing process, the NRC is required to publish certain Federal Register notices informing the public of, among other things, the conduct of the scoping process on the Environmental Impact Statement to be prepared by the NRC and the opportunity to request a 10 CFR Part 2, Subpart L hearing on the license application.

DCS has given some thought to the appropriate form and content of such notices. While we understand that the NRC will independently develop the necessary form and content of the notices, we are providing our recommendations for your consideration. Attached please find:

- (1) a suggested "Notice of Receipt of Application and Intent to Prepare an Environmental Impact Statement and Conduct Scoping Process"; and
- (2) a suggested "Notice of Acceptance for Docketing of the Construction Authorization Request and Notice of Opportunity for a Hearing".

We encourage the NRC to promptly publish the scoping notice prior to receipt of the CAR and to schedule any scoping meetings for a date shortly after – but contingent upon – the NRC's docketing of the CAR. We hope you will find this information useful, and we are prepared to discuss any questions or comments you may have regarding these drafts.

*NMSS01 Public*

Mr. Eric J. Leeds  
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If I can be of any assistance, please feel free to contact me at (704) 373-7820.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter S. Hastings".

Peter S. Hastings, P.E.  
Licensing Manager

Enclosures: as stated

xc (without enclosure):

Edward J. Brabazon, DCS  
Joseph G. Giitter, USNRC/HQ  
John T. Hull, Esq., USNRC/HQ  
Robert H. Ihde, DCS  
James V. Johnson, USDOE/MD  
John E. Matheson, DCS  
Toney A. Mathews, DCS  
Andrew Persinko, USNRC/HQ  
Robert C. Pierson, USNRC/HQ  
PRA/EDMS: Corresp\Outgoing\NRC\Licensing\DCS-NRC-000033

## **PROPOSED DRAFT**

### **Duke Cogema Stone & Webster LLC, Mixed Oxide Fuel Fabrication Facility; Notice of Receipt of Application and Notice of Intent to Prepare an Environmental Impact Statement and Conduct Scoping Process**

Duke Cogema Stone & Webster, LLC (DCS) has submitted a request for authorization to commence construction (construction authorization request or CAR) of a mixed oxide fuel fabrication facility (MFFF) on the U.S. Department of Energy (DOE) Savannah River Site, pursuant to Section 53 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 70. The CAR was submitted by letter dated February \_\_\_, 2001. DCS previously submitted an Environmental Report (ER) on December 19, 2000. The CAR and the ER are the first major steps in the process of obtaining a license to possess and use special nuclear material in the MFFF in accordance with the U.S. Nuclear Regulatory Commission's (NRC) rules in 10 CFR Parts 51 and 70. The acceptability of the tendered CAR for docketing and other matters, including an opportunity to request a hearing, will be the subject of a subsequent *Federal Register* notice.

A copy of the CAR and ER are available for public inspection at the Commission's Public Document Room, [ADDRESS], and on the NRC website at [www.NRC.gov](http://www.NRC.gov). The purpose of this notice is to inform the public that the NRC will be preparing an environmental impact statement in support of the review of the license application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR §51.29.

In accordance with 10 CFR §51.60(b)(1)(i), DCS submitted the ER as part of the license application. The ER was prepared pursuant to 10 CFR Part 51 and is also accessible at

<http://www.nrc.gov/NRC/ADAMS/index.html>, which provides access through the NRC's Public Electronic Reading Room (PERR) link.

This notice advises the public that the NRC intends to gather the information necessary to prepare an Environmental Impact Statement (EIS) in support of the review of the license application for the MFFF. Possible alternatives to the proposed action (license issuance) include no action and reasonable alternative facility designs. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the EIS and, as soon as practicable thereafter, will prepare a draft EIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the EIS will be used to accomplish the following:

- a. Define the proposed action that is to be the subject of the EIS.
- b. Determine the scope of the EIS and identify the significant issues to be analyzed in depth.
- c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.
- d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the EIS being considered.
- e. Identify relevant EISs prepared by the DOE related to storage and disposition of weapons-grade fissile material and surplus plutonium disposition.
- f. Identify other environmental review and consultation requirements related to the proposed action.
- g. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

- h. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies.
- i. Describe how the EIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

- a. The applicant, Duke Cogema Stone & Webster.
- b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.
- c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.
- d. Any affected Indian tribe.
- e. Any person who requests or has requested an opportunity to participate in the scoping process.
- f. Any person who intends to petition for leave to intervene.

Participation in the scoping process for the EIS does not entitle participants to become parties to the proceeding to which the EIS relates. Notice of opportunity for a hearing regarding the license application will be the subject of a *Federal Register* notice once the CAR is accepted for docketing. The process for participating in any hearing is outside the scope of matters to be discussed at this public meeting.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold a public meeting for the MFFF EIS. The scoping meeting will be held at the [ADDRESS] on [DATE]. The meeting date is contingent on NRC acceptance for docketing of the CAR. If the CAR is

not accepted for docketing by **[date]**, the scoping meeting will be postponed. NRC will publish notice of any such postponement on the NRC website at *www.NRC.gov* no later than **[number]** days before the meeting. Confirmation of the meeting date can also be obtained by contacting Mr. **[Name]** by telephone at **[phone number]**, or by Internet to the NRC at **[Internet address.]**

There will be two sessions to accommodate interested parties. The first session will convene at **[TIME]** and will continue until **[TIME]**. The second session will convene at **[TIME]** with a repeat of the overview portions of the meeting and will continue until **[TIME]**. Both meetings will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the EIS, and the proposed review schedule; (2) an overview by DCS of the proposed action, licensing of the MFFF, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the EIS.

Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. **[NAME]** by telephone at **[PHONE NUMBER]**, or by Internet to the NRC at **[Internet Address]** no later than **[DATE]**. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register.

Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the EIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. **[NAME]**'s attention no later than **[DATE]**, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the EIS to:

Chief, Rules and Directives Branch  
Division of Administrative Services  
Office of Administration  
Mailstop T-6 D 59  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by **[DATE]**. Electronic comments may be sent by the Internet to the NRC at **[Internet Address]**. Electronic submissions should be sent no later than **[DATE]**, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link, <http://www.nrc.gov/NRC/ADAMS/index.html> at the NRC Homepage.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for public inspection through the PERR link. The staff will then prepare and issue for comment the draft EIS, which will be the subject of separate notices and may be the subject of a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final EIS, which will also be available for public inspection.

Information about the proposed action, the EIS, and the scoping process may be obtained from Mr. [NAME] at the aforementioned telephone number or e-mail address.



## **PROPOSED DRAFT**

### **Duke Cogema Stone & Webster, LLC, Mixed Oxide Fuel Fabrication Facility, Notice of Acceptance for Docketing of the Construction Authorization Request And Notice of Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for a license to possess special nuclear material at a mixed oxide fuel fabrication facility (MFFF) submitted by Duke Cogema Stone & Webster, LLC (DCS).

DCS submitted an Environmental Report (ER) on December 19, 2000 and a Construction Authorization Request (CAR) on February \_\_, 2001. A notice of receipt of application and notice of intent to prepare an environmental impact statement (EIS) and conduct a scoping process was published in the *Federal Register* on [date] (\_\_\_ FR \_\_\_).

Under 10 CFR §70.23(b), the applicant may not commence construction of the MFFF until the NRC finds that the design bases of the principal structures, systems, and components, and the quality assurance program provide reasonable assurance of protection against natural phenomena and the consequences of potential accidents. The purpose of the CAR is to provide the NRC with the information necessary to make that finding. In addition, under 10 CFR §70.23(a)(7), the NRC must also find before construction of the MFFF may commence, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. At a later date, the applicant intends to file the remainder of its license application, which, if approved, will authorize the applicant to possess and use licensed materials in, and operate, the MFFF.

The Commission's staff has determined that DCS has submitted information in accordance with 10 CFR Part 70 that is sufficiently complete for Staff review and acceptable for docketing. The docketing of the CAR does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

The applicant is applying for a single license to possess and use licensed material in the MFFF pursuant to Section 53 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 70. In the event that a hearing is held on the license application, the Commission intends to conduct a bifurcated proceeding as described below.

In the first phase of the proceeding, the Commission is affording interested persons the opportunity to identify how their interests may be affected by the results of the proceeding (i.e., establish standing) and to request a hearing on the license application. If admitted as parties to the proceeding, such persons may litigate those concerns if any, that are germane to the issuance of the construction authorization or environmental issues.

The Commission will determine the legal standing of any person requesting a hearing during the first phase of the proceeding. The determination of standing, once made, will establish the standing of any such party for the entire proceeding on the license application. However, during the first phase, persons requesting a hearing need only identify areas of concern within the scope of the matters to be considered during this first phase of the bifurcated hearing proceeding. Thus, in the first phase, areas of concern will be reviewed and considered in determining whether to grant a person an opportunity for hearing only if they relate to either:

- (1) the proposed issuance of the construction authorization and the findings the Commission

must make to issue that authorization; or (2) the environmental findings which the Commission must make under the National Environmental Policy Act and 10 CFR Part 51.

The second phase of this proceeding will begin with the filing of the remainder of the license application by DCS. Parties will be given an opportunity at that time to identify areas of concern and request a hearing on the remainder of the application. Such matters will be reviewed and considered in determining whether parties previously granted standing in this proceeding will be granted a hearing in the second phase. No matters raised or which could have been raised during the first phase of the hearings will be considered in the second phase.

More specifically, the following issues will not be considered in the second phase of this proceeding: issues related to the adequacy of the NRC's environmental impact statement (EIS) for the MFFF; issues related to the adequacy of the quality assurance program for the MFFF; issues related to the adequacy of the design bases of the principal structures, systems, and components of the MFFF; and any other matter that is discussed in the construction authorization request and on which a finding has been made by the NRC in the first phase. During the second phase, parties may raise areas of concern relating to the first phase of the proceeding only:

- 1) to the extent that the remainder of the license application submitted in the second phase contains new or different information from the CAR or EIS, provided that the areas of concern raise matters that are material to a finding that the Commission must make on the license application;
- 2) to the extent that there are significant new circumstances or information sufficient to warrant preparation of a supplement EIS under 10 CFR §51.92(a). Under

such circumstances, the areas of concern will be limited to the scope of the supplemental EIS; or

3) to the extent that there is significant new information sufficient to warrant a backfit of the design bases, quality assurance program, or other aspects of the license application approved in the first phase under 10 CFR §70.76.

This is a proceeding on an application for a license falling within the scope of subpart L, “Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,” of NRC’s rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to 10 CFR §2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with 10 CFR §2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this *Federal Register* notice.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC’s regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in 10 CFR §2.1205(h).
3. The requester’s areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR §2.1205(d).

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff. In accordance with 10 CFR § 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

1. The counsel for the applicant, Donald J. Silverman, Morgan, Lewis & Bockius LLP, 1800 M Street, NW, Washington DC 20036; and

2. The NRC staff, by delivering it to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

A petition to intervene or a request for hearing on the license application will be considered timely if it is filed within thirty days of this *Federal Register* notice. Under 10 CFR §2.1205(1), an untimely petition to intervene will not be entertained, unless the petitioner has established that the delay in filing was excusable and grant of the petition or request will not result in undue prejudice or undue injury to any other participant in the proceeding, including the applicant and the NRC staff (if the staff is a party).

The NRC contact for the licensing action is \_\_\_\_\_. \_\_\_\_\_ may be contacted at \_\_\_\_\_ or by e-mail at \_\_\_\_\_ for more information about this action.